

**REMARKS**

Entry of the foregoing amendments is respectfully requested.

**Summary of Amendments**

By the foregoing amendments claims 12, 35 and 36 are amended, claims 34 and 38-40 are cancelled and claims 41-44 are added, whereby claims 12-17, 19, 20, 23, 24, 26, 32, 33, 35-37 and 41-44 will be pending, with claims 12, 36, 41 and 44 being independent claims.

New claims 41-43 correspond generally to cancelled claims 38-40, with claim 38 being rewritten in independent form as new claim 41. New claim 44 is similar to claim 41, but does not recite the presence of a W/O emulsifier and alkyl ether sulfates and acids on which the alkyl ether sulfates are based as examples of employable O/W emulsifiers.

Support for amended claims 12 and 36 can be found throughout the present specification and in particular, pages 21-23 thereof. The amendment to claim 35 is self-explanatory.

Applicants emphasize that the amendments to claims 12, 35 and 36 are without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute these claims in their original, unamended form in one or more continuation and/or divisional applications.

**Summary of Office Action**

As an initial matter, Applicants note with appreciation that the Examiner has indicated claims 38-40 to be allowable if rewritten in independent form (see new claims 41-43).

Applicants also note with appreciation that the claim rejections under 35 U.S.C. § 102(b)

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over Rhone-Poulenc Chimie, EP 0 633 018 A1 set forth in the previous Office Action are not repeated in the present Office Action.

Claim 35 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 12, 13, 17, 32-34, 36 and 37 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by McGee et al., U.S. Patent No. 5,585,343 (hereafter "McGEE").

Claims 12-17, 19, 20 and 32-37 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over McGEE.

Claims 12, 16, 17, 20, 23, 24, 26, 32, 33 and 35 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being unpatentable over Henkel KGaA, DE 4,010,393 (hereafter "HENKEL") as evidenced by Schambil et al., U.S. Patent No. 6,086,787 (hereafter "SCHAMBIL").

Claims 13-15 and 19 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over HENKEL in view of SCHAMBIL and Rosano, U.S. Patent No. 4,146,499 (hereafter "ROSANO").

### **Response to Office Action**

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

***Response to Rejection under 35 U.S.C. § 112, Second Paragraph***

Claim 35 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The rejection alleges that the term “obtainable” renders it unclear whether the composition that has been obtained is being claimed.

Applicants respectfully disagree with the Examiner in this regard. Nevertheless, merely in order to expedite the issuance of a patent with the claims submitted herewith, claim 35 has been amended, thereby rendering this rejection moot.

***Response to Rejection of Claims under 35 U.S.C. § 102(e) over McGEE***

Claims 12, 13, 17, 32-34, 36 and 37 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by a newly cited document, McGEE. The rejection relies on the Examples and on claim 4 of McGEE and alleges that McGEE anticipates the claimed subject matter.

This rejection is respectfully traversed. Specifically, amended independent claims 12 and 36 recite that the oil phase of the microemulsion recited therein comprises at least one of an ester of an alkanecarboxylic acid with a chain length of from 3 to 30 carbon atoms and an alcohol with a chain length of from 3 to 30 carbon atoms, an ester of an aromatic carboxylic acid and an alcohol with a chain length of from 3 to 30 carbon atoms, a hydrocarbon, a hydrocarbon wax, a dialkyl ether, a fatty acid triglyceride, cyclomethicone, and hexamethylcyclotrisiloxane. McGEE neither teaches nor suggests any of these oil phase components and for this reason alone, does not anticipate the subject matter of any of the claims submitted herewith.

In this regard, Applicants note that none of the Examples of McGEE appear to disclose any

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ethoxylated components, let alone ethoxylated O/W emulsifiers.

In view of the foregoing, it is respectfully requested that the rejection of claims 12, 13, 17, 32-34, 36 and 37 under 35 U.S.C. § 102(e) over McGEE be withdrawn.

***Response to Rejection of Claims under 35 U.S.C. § 103(a) over McGEE***

Claims 12-17, 19, 20 and 32-37 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over McGEE. In this regard, the rejection again relies on the Examples and on claim 4 and additionally on column 7, lines 40-46 of McGEE.

Applicants respectfully traverse this rejection as well. As set forth above, amended independent claims 12 and 36 recite that the oil phase of the microemulsion recited therein comprises at least one of an ester of an alkanecarboxylic acid with a chain length of from 3 to 30 carbon atoms and an alcohol with a chain length of from 3 to 30 carbon atoms, an ester of an aromatic carboxylic acid and an alcohol with a chain length of from 3 to 30 carbon atoms, a hydrocarbon, a hydrocarbon wax, a dialkyl ether, a fatty acid triglyceride, cyclomethicone, and hexamethylcyclotrisiloxane. None of the passages of McGEE relied on by the Examiner (or any other passage thereof) teaches or suggests any of the oil phase components recited in independent claims 12 and 36, wherefore this document is unable to render obvious the subject matter of any of the claims submitted herewith. Accordingly, it is respectfully requested that the rejection of claims 12-17, 19, 20 and 32-37 under 35 U.S.C. § 103(a) over McGEE be withdrawn as well.

***Response to Rejection of Claims under 35 U.S.C. § 102(b)/103(a) over HENKEL***

Claims 12, 16, 17, 20, 23, 24, 26, 32, 33 and 35 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being

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unpatentable over HENKEL as evidenced by its English language equivalent SCHAMBIL. In this regard, the Office Action indicates that Applicants' corresponding arguments set forth in response to the previous Office Action have not been found persuasive.

While Applicants still strongly disagree with the Examiner in this regard. Nevertheless, merely in order to expedite the issuance of a patent with the claims submitted herewith, independent claim 12 has been amended to incorporate language from (now cancelled) claim 34 therein. Since the patentability of claim 34 over HENKEL is at least implicitly acknowledged in the present Office Action, the present rejection is rendered moot. Applicants emphasize again that they reserve the right to prosecute claim 12 in its original, unamended form in one or more continuation and/or divisional applications.

***Response to Rejection of Claims under 35 U.S.C. § 103(a) over HENKEL in View of ROSANO***

Dependent claims 13-15 and 19 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over HENKEL in view of SCHAMBIL and ROSANO.

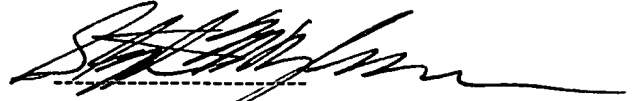
Applicants submit that since independent claim 12 has been amended to render same patentable over HENKEL, this rejection is rendered moot as well.

**CONCLUSION**

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

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Respectfully submitted,  
Anja EITRICH et al.

A handwritten signature in black ink, appearing to read 'Neil F. Greenblum', written over a horizontal dashed line.

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